

current medical examiner's certificate that was submitted to the State for up to 15 days from the date it was issued as proof of medical certification.

(iii) If that driver obtained the medical certification based on having obtained a medical variance from FMCSA, the motor carrier must also include a copy of the medical variance documentation in the driver qualification file in accordance with § 391.51(b)(8); and

(8) A Skill Performance Evaluation Certificate obtained from a Field Administrator, Division Administrator, or State Director issued in accordance with § 391.49; or the Medical Exemption document, issued by a Federal medical program in accordance with part 381 of this chapter.

(c) Except as provided in paragraph (d) of this section, each driver's qualification file shall be retained for as long as a driver is employed by that motor carrier and for three years thereafter.

(d) The following records may be removed from a driver's qualification file three years after the date of execution:

(1) The motor vehicle record received from each State driver licensing agency to the annual driver record inquiry required by § 391.25(a);

(2) The note relating to the annual review of the driver's driving record as required by § 391.25(c)(2);

(3) The list or certificate relating to violations of motor vehicle laws and ordinances required by § 391.27;

(4) The medical examiner's certificate required by § 391.43(g), a legible copy of the certificate, or for CDL drivers any CDLIS MVR obtained as required by § 391.51(b)(7)(ii); and

(5) Any medical variance issued by FMCSA, including a Skill Performance Evaluation Certificate issued in accordance with § 391.49; or the Medical Exemption letter issued by a Federal medical program in accordance with part 381 of this chapter.

(Approved by the Office of Management and Budget under control number 2126-004)

[63 FR 33277, June 18, 1998, as amended at 69 FR 16721, Mar. 30, 2004; 73 FR 73127, Dec. 1, 2008; 75 FR 28502, May 21, 2010]

§ 391.53 Driver investigation history file.

(a) After October 29, 2004, each motor carrier must maintain records relating to the investigation into the safety performance history of a new or prospective driver pursuant to paragraphs (d) and (e) of § 391.23. This file must be maintained in a secure location with controlled access.

(1) The motor carrier must ensure that access to this data is limited to those who are involved in the hiring decision or who control access to the data. In addition, the motor carrier's insurer may have access to the data, except the alcohol and controlled substances data.

(2) This data must only be used for the hiring decision.

(b) The file must include:

(1) A copy of the driver's written authorization for the motor carrier to seek information about a driver's alcohol and controlled substances history as required under § 391.23(d).

(2) A copy of the response(s) received for investigations required by paragraphs (d) and (e) of § 391.23 from each previous employer, or documentation of good faith efforts to contact them. The record must include the previous employer's name and address, the date the previous employer was contacted, and the information received about the driver from the previous employer. Failures to contact a previous employer, or of them to provide the required safety performance history information, must be documented.

(c) The safety performance histories received from previous employers for a driver who is hired must be retained for as long as the driver is employed by that motor carrier and for three years thereafter.

(d) A motor carrier must make all records and information in this file available to an authorized representative or special agent of the Federal Motor Carrier Safety Administration, an authorized State or local enforcement agency representative, or an authorized third party, upon request or as

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part of any inquiry within the time period specified by the requesting representative.

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[69 FR 16721, Mar. 30, 2004]

§ 391.55 LCV Driver-Instructor qualification files.

(a) Each motor carrier must maintain a qualification file for each LCV driver-instructor it employs or uses. The LCV driver-instructor qualification file may be combined with his/her personnel file.

(b) The LCV driver-instructor qualification file must include the information in paragraphs (b)(1) and (b)(2) of this section for a skills instructor or the information in paragraph (b)(1) of this section for a classroom instructor, as follows:

(1) Evidence that the instructor has met the requirements of 49 CFR 380.301 or 380.303;

(2) A photographic copy of the individual's currently valid CDL with the appropriate endorsements.

[69 FR 16738, Mar. 30, 2004; 69 FR 28846, May 19, 2004]

Subpart G—Limited Exemptions

§ 391.61 Drivers who were regularly employed before January 1, 1971.

The provisions of § 391.21 (relating to applications for employment), § 391.23 (relating to investigations and inquiries), and § 391.33 (relating to road tests) do not apply to a driver who has been a single-employer driver (as defined in § 390.5 of this subchapter) of a motor carrier for a continuous period which began before January 1, 1971, as long as he/she continues to be a single-employer driver of that motor carrier.

[63 FR 33278, June 18, 1998]

§ 391.62 Limited exemptions for intracity zone drivers.

The provisions of §§ 391.11(b)(1) and 391.41(b)(1) through (b)(11) do not apply to a person who:

(a) Was otherwise qualified to operate and operated a commercial motor vehicle in a municipality or exempt intracity zone thereof throughout the

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one-year period ending November 18, 1988;

(b) Meets all the other requirements of this section;

(c) Operates wholly within the exempt intracity zone (as defined in 49 CFR 390.5);

(d) Does not operate a vehicle used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary under 49 U.S.C. chapter 51.; and

(e) Has a medical or physical condition which:

(1) Would have prevented such person from operating a commercial motor vehicle under the Federal Motor Carrier Safety Regulations contained in this subchapter;

(2) Existed on July 1, 1988, or at the time of the first required physical examination after that date; and

(3) The examining physician has determined this condition has not substantially worsened since July 1, 1988, or at the time of the first required physical examination after that date.

[61 FR 13346, Mar. 26, 1996; 61 FR 17253, Apr. 19, 1996]

§ 391.63 Multiple-employer drivers.

(a) If a motor carrier employs a person as a multiple-employer driver (as defined in § 390.5 of this subchapter), the motor carrier shall comply with all requirements of this part, except that the motor carrier need not—

(1) Require the person to furnish an application for employment in accordance with § 391.21;

(2) Make the investigations and inquiries specified in § 391.23 with respect to that person;

(3) Perform the annual driving record inquiry required by § 391.25(a);

(4) Perform the annual review of the person's driving record required by § 391.25(b); or

(5) Require the person to furnish a record of violations or a certificate in accordance with § 391.27.

(b) Before a motor carrier permits a multiple-employer driver to drive a commercial motor vehicle, the motor carrier must obtain his/her name, his/her social security number, and the identification number, type and issuing